**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**CENTRAL EXCISE APPEAL NO.80 OF 2005**

The Commissioner of Central
Excise, Commissionarate - III,
Mumbai. .. Appellant

V/s

M/s.Asian Paints India Ltd. .. Respondent

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Shri.R.V.Desai, Seniour Counsel with Mrs.Neeta Masurkar for the Appellant.

**CORAM : DR.S.RADHAKRISHNAN &**
**J.P.DEVADHAR, JJ.**

**DATE : 21ST FEBRUARY, 2006.**

**P.C.:**

1. Heard the learned Counsel for the Appellant.

We have perused the order passed by CESTAT dated 1st July, 2004. The CESTAT has decided the said matter on the basis of earlier order passed in RJB/MII/380 to 384/2001 dated 31st December, 2001. As far as the first question is concerned, the learned Counsel appearing on behalf of the Appellant fairly states that the Department has not challenged the earlier decision of the Tribunal and therefore, no fault can be found with the order of the Tribunal in the present case in following its earlier decision. As far as the second question is concerned, the Tribunal in its remand order dated 9th February, 1998, had directed that the party's claim should be considered afresh. Accordingly, the matter was considered afresh in respect of the issues raised by the Assessee. In these proceedings which arise from the order passed on remand, it is not open to the revenue to agitate the

issues which were not remanded. In these circumstances we see no merit in the second question raised by the revenue. Appeal stands dismissed.

**(DR.S.RADHAKRISHNAN,J.)**

**(J.P.DEVADHAR,J.)**